

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, August 23, 2005
Tuesday, 9:45 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Martz, Schlapp, Skelton; present.

Cathy Holdeman, Assistant City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

The Minutes of the August 16, 2005 meeting were approved 7 to 0.

CONSENT AGENDA

Motion--carried Mayans moved that Consent Items 1 through 21d, be approved as presented. Motion carried 7 to 0.

BOARD OF BIDS**REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED AUGUST 22, 2005.**

Bids were opened August 19, 2005, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

Water Distribution System to serve properties along 37th St. North from Maize Road to Tyler Road - along 37th Street North, from Maize Road to Tyler Road. (448-89803/635650/763706) Traffic to be maintained during construction using flagpersons and barricades. (District V)

Dondlinger & Sons - \$203,574.00

16 Inch Water Distribution System in Oliver from Pawnee to George Washington Boulevard - along Oliver from Pawnee to George Washington Boulevard. (448-89797/633746/752833) Traffic to be maintained during construction by using flagpersons and barricades. (District III)

Nowak Construction - \$262,091.99

Decker and Decker Circle from the north line of Cavit, north to and including cul-de-sac; Texas from the east line of Decker, east to the east line of the plat; Texas Court from the north line of Texas, north to and including cul-de-sac; Sidewalk on one side of Texas and Decker to serve Shadow Woods Addition - north of Maple, west of 135th Street West. (472-83723/765938/490051) Traffic to be maintained during construction using flagpersons and barricades. (District V)

APAC – Kansas Inc. - \$276,305.20

Lateral 507 Southwest Interceptor Sewer to serve Woodland Heights 2nd Addition - south of Central, east of Ridge. (468-83972/744137/480825) Traffic to be maintained during construction using flagpersons and barricades. (District V)

Wilks Underground - \$21,603.75

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Water Distribution System to serve Rio Vista Estates 4th Addition - north of 61st Street North, west of Meridian. (448-89981/735247/470918) Does not affect existing traffic. (District VI)

McCullough Excavation - \$66,950.00

Stout, from the north line of 13th Street North to the south line of Hunters View Hunters View/Bellick, from the west line of Cheryl's Hollow Addition to the east line of Stout; Stout Court from the west line of Stout to and including cul-de-sac (Lots 3 through 9, Block 1); Stout Court, from the west line of Stout to and including cul-de-sac (Lots 10 through 17, Block 1) to serve Cheryl's Hollow Addition - north of 13th Street North, west of 135th Street West. (472-84139/765920/490033) Traffic to be maintained during construction using flagpersons and barricades. (District V)

Ritchie Paving - \$437,795.90

Storm Water Drain #228 to serve Krug North Addition - north of 21st Street North, west of 143rd Street East. (468-83793/751405/485296) Does not affect existing traffic. (District II)

Jayhawk Contractors - \$339,366.20 (Base bid)
\$ 34,000.00 (Add alternate)
\$373,366.20 (Total aggregate bid)

Motion--

Mayans moved that the contracts be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the necessary signatures be authorized.

--carried

Motion carried 7 to 0.

PARK DEPARTMENT/GOLF DIVISION: Certified Blue Tag Grass Seed.

BWI Springfield - \$44,002.20 (Group 1/total net bid)

PUBLIC WORKS DEPARTMENT/FLEET DIVISION: Full-size Police Package Sedans.

Rusty Eck Ford Inc. - \$818,280.00*
*Estimate – Contract approved on unit cost basis.

WATER & SEWER DEPARTMENT/SEWAGE TREATMENT DIVISION: Polymer for Sewage Treatment.

Ondeo Nalco Chemical Company - Proposed increase per pound from \$.5073 to \$.74 for contract extension period through September 30, 2005.

Motion--

Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2005</u>	<u>(Consumption on Premises)</u>
David P. Pool	MacDonald Municipal Golf Course	840 North Yale
<u>Renewal</u>	<u>2005</u>	<u>(Consumption off Premises)</u>
Bao Tran	B & H Fast Trins	2796 South Seneca

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion--

Mayans moved that the licenses subject to Staff review and approval be approved. Motion carried 7 to 0.

--carried

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PRELIM. ESTS.

PRELIMINARY ESTIMATES:

- a. Improve Tyler and Yosemite Intersection by adding a left turn lane on Tyler road, extend the reinforced box culvert under Yosemite to accommodate paving and include guardrail and pavement marking (Tyler Road and Yosemite) (87N-0239-01/472-84176/706917/205383) Two-way traffic to be maintained during construction. (District IV) - \$530,000.00
- b. 12 Inch Water Line in 143rd Street East (along 143rd St. from 1/4 mile south of Cardinal to Central Avenue) (448-89796/633760/753847) Traffic to be maintained during construction by using flagpersons and barricades. (District II) - \$350,000.
- c. 26th Street Circle North to serve Regency Park 3rd Addition (south of 39th, west of Greenwich) (472-84241/765946/490059) Traffic to be maintained during construction by using flagpersons and barricades. (District II) - \$202,000
- d. Construction of left turn lanes on Harry & Longford (472-83998/706907/204373) Traffic to be maintained during construction by using flagpersons and barricades. (District II) - \$185,000

Motion--carried

Mayans moved that the file be received. Motion carried 7 to 0.

PETITION

PETITION TO CONSTRUCT A STORM WATER DRAIN IN KRUG NORTH SECOND ADDITION, NORTH OF 21ST STREET, WEST OF 143RD STREET EAST. (DISTRICT II)

Agenda Report No. 05-0753

On August 2, 2005, the City Council approved a Petition to construct a storm water drain in Krug North 2nd Addition. An attempt to award a contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

The project will serve a new residential development located north of 21st Street, west of 143rd Street East.

The existing Petition totals \$372,000. The new Petition totals \$468,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--carried

Mayans moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 05-443

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain Number 228 (north of 21st, west of 143rd street east) 468-83793 in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, Mayans.

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STREET CLOSURES **STREET CLOSURE: THE INTERSECTION OF SECOND STREET AND SHERIDAN. (DISTRICT VI)**

Agenda Report No. 05-0773

Wildcat Construction Company, Inc. has contracted to install a large storm drainage system in west Wichita. Work is now nearing the intersection of Second and Sheridan and the installation of a 60" RCP in Sheridan across Second Street and large manholes near both the north and south sides of Second Street will require the closure of the intersection. At the same time, a 30" RCP will be installed along the south side of Second St. toward Gow and a 24" RCP will be installed across Second St., just east of Gow. The contractor is requesting a four-week closure of the intersection of Second and Sheridan to minimize traffic and related construction safety concerns. The requested street closure is tentatively scheduled to begin approximately 9:00 a.m. Tuesday, September 6, 2005 and be completed on or before 6:30 a.m. Tuesday, October 3, 2005.

Wildcat Construction Company, Inc. is responsible for the placement of the required detour and construction signs and barricades and the notification of area businesses and residents. During the street closure traffic on Second Street will be detoured as follows:

--Eastbound Second St. traffic will be detoured north on West St. to Central, then east to Meridian and then south to Second St.

--Westbound Second St. traffic will be detoured north on Meridian to Central, then west to West St. and then south to Second St.

There are no financial considerations.

Motion--carried Mayans moved that the street closures be approved. Motion carried 7 to 0.

ADVISORY BOARDS **MINUTES OF ADVISORY BOARDS/COMMISSIONS:**

Board of Refrigeration, Air Conditioning, Warm Air Heating and Boilers, June 2, 2005
District VI Advisory Board, June 6, 2005
Wichita Employees' Retirement Board, June 15, 2005
Police & Fire Retirement Board, June 22, 2005
District III Advisory Board, July 6, 2005
Board of Code Standards and Appeals, July 11, 2005
District II Advisory Board, July 11, 2005
Wichita Airport Advisory Board, July 11, 2005
Wichita Public Library Board, July 19, 2005
Wichita Public Library, monthly report, July 2005

Motion--carried Mayans moved that the file be received. Motion carried 7 to 0.

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INTERAGENCY

INTERAGENCY AGREEMENT.

Agenda Report No. 05-0754

The Access to Jobs program provides rides to and from work for low-income workers. Since the start of the program in October 2000, Access has provided over 489,799 rides. By entering into an interagency agreement with Sedgwick County, KS, Wichita Transit can provide 1,000 more rides a year to low-income workers. This is the standard contract that we use with vendors.

Part of the Access to Jobs grant is to provide half the cost of the rides that agencies offer low-income clients when they are trying to enter or re-enter the work force. The other half of those expenses are borne by the agency.

The Access to Jobs rides will be purchased with grants from FTA (50%) and from Sedgwick County, KS (50%). No city funds will be involved in the Access rides.

The City's Law Department has reviewed the contract prior to execution as to form.

Motion--
--carried

Mayans moved that the interagency agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

AVALON PARK

CONSTRUCTION ENGINEERING AND STAKING IN AVALON PARK ADDITION, NORTH OF 37TH STREET NORTH, EAST OF TYLER - SUPPLEMENTAL. (DISTRICT V)

Agenda Report No. 05-0755

The City Council approved the storm water drainage improvements in Avalon Park Addition on May 17, 2005. On August 2, 2005 the City approved an Agreement with Professional Engineering Consultants, P.A. (PEC) to design the improvements. The Design Agreement with PEC requires PEC to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreement between the City and PEC provides for construction engineering and staking for the improvements. Due to the current workload created by previous projects, City crews are not available to perform the construction engineering and staking for this project.

Payment to PEC will be on a lump sum basis of \$43,000 and will be paid by special assessments.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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JOBS VENDOR

ACCESS TO JOBS VENDOR AGREEMENT.

Agenda Report No. 05-0756

The Access to Jobs program provides rides to and from work for low-income workers. Since the start of the program in October 2000, Access to Jobs has provided over 489,799 rides. By entering into a Vendor Agreement with Sedgwick County, KS the program can provide over 4,200 more rides a year to low-income clients in a very cost effective manner. This is the standard contract that we use with vendors.

Part of the Access to Jobs grant is to provide half the cost of rides that non-profit agencies offer low-income clients when they are trying to enter, or re-enter the work force. The other half of those expenses are borne by the agency.

The Access to Jobs rides will be purchased with grants from FTA (50%) and Sedgwick County, KS (50%). No city funds will be involved in the Access to Jobs ride to work program.

Vendor Agreement was drafted by the Legal Department.

Motion--
--carried

Mayans moved that the Access to Jobs Vendor Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

(ITEM 7D.) WORKER'S COMP.

CONTRACT FOR WORKER'S COMPENSATION MEDICAL SERVICES.

(Item was pulled at the request of Risk Management.)

ZEBRA MUSSEL

ZEBRA MUSSEL CONTROL STUDY.

Agenda Report No. 05-0769

Zebra mussels are prolific aquatic pests that have been spreading throughout North American waterways since the 1980s. They typically cause problems with industrial facilities, such as water intake and pumping stations.

Zebra mussels were found in El Dorado Lake in 2003. In the summer of 2004, zebra mussels were reported to have been found in Cheney Reservoir, which supplies approximately 60 percent of the City's water.

A Request for Proposal seeking professional services to develop a strategy for controlling zebra mussels was sent to prospective consultants, with six (6) consultants responding. After review by the Staff Screening & Selection Committee, two consultants were interviewed. Based on the interviews, the committee recommended that CH2M Hill be selected for the control study.

The Agreement with CH2M Hill is for \$42,500. The 2005 revised operating budget has an approved expense of \$50,000 for a zebra mussel control study report.

The Agreement has been reviewed and approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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COUNTRY GARDENS ENGLISH COUNTRY GARDENS ADDITION, EAST OF TYLER, NORTH OF 13TH STREET. (DISTRICT V)

Agenda Report No. 05-0758

The City Council approved the water distribution system and paving improvements in English Country Gardens Addition on February 10, 2004.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond-financed improvements consisting of water and paving in English Country Gardens Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$18,000, and will be paid by special assessments.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

AUBURN HILLS AUBURN HILLS 15TH ADDITION, NORTH OF KELLOGG, WEST OF 135TH STREET WEST. (DISTRICT V)

Agenda Report No. 05-0759

The City Council approved the paving improvements in Auburn Hills 15th Addition on March 16, 2004.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of paving in Auburn Hills 15th Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$13,500, and will be paid by special assessments.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

RIO VISTA ESTATES RIO VISTA ESTATES FOURTH ADDITION, NORTH OF 61ST STREET NORTH, WEST OF MACARTHUR. (DISTRICT VI)

Agenda Report No. 05-0760

The City Council approved the water distribution system, sanitary sewer, and paving improvements in Rio Vista Estates 4th Addition on June 15, 2004.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water, sanitary sewer, and paving in Rio Vista Estates 4th Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

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Payment to Baughman will be on a lump sum basis of \$66,800, and will be paid by special assessments.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

CHANGE ORDER

MURDOCK BRIDGE OVER THE LITTLE ARKANSAS RIVER. (DISTRICT VI)

Agenda Report No. 05-0761

On June 22, 2004, the City Council approved a project to improve the Murdock Bridge over the Little Arkansas River. The bridge was rehabilitated, rather than replaced, in order to preserve the historical integrity of the structure. As the work progressed, conditions were encountered that were not anticipated when the project was designed. After the deck was removed and beam repairs began, it was determined that the extent of repairs needed was much greater than planned. The amount of beams that needed repair increased. In addition, the amount of sidewalk slab repairs was greater than expected.

A Change Order has been prepared for the additional work. Funding is available within the project budget.

The total cost of the additional work is \$28,788 with \$5,758 by General Obligation Bonds and \$23,030 by Federal Grants administered by the Kansas Department of Transportation. The original contract is \$1,387,116. This Change Order plus a previous change order represents 6.6% of the original contract amount.

The Law Department has approved the Change Order as to legal form. The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Motion--
--carried

Mayans moved that the Change Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

PURCHASE OPTION

PURCHASE OPTION, NORTH PARK RESIDENCES APARTMENTS, L.P. (DISTRICT II)

Agenda Report No. 05-0762

On April 20, 1993, City Council approved the issuance of \$7.6 million in Industrial Revenue Refunding Bonds, Series II A&B, 1993, to redeem the outstanding principal amount of the 1985 Series VI bonds. The 1985 Bonds were used to finance the construction of 252 living units of the Comotara Retirement Center as well as five on-site parking garages and two special-use buildings. Comotara Retirement Center is located in the area of 29th Street North and Rock Road in far northeast Wichita.

Under the provisions of Sections 11.1 of the Lease Agreement for the bond series, Northpark Residences Apartments, L.P. (as successor to Park North Limited Partnership, the original tenant) has the option, if all outstanding bonds have been paid, to purchase the facility from the City of Wichita for the sum of \$100. On August 9, 2005, staff received notice from J. Worthen DeYoung, Attorney for Northpark Residences Apartments, L.P., ("Tenant") informing the City of Wichita of the company's intention to exercise its purchase option.

Under the terms of the Lease, the City is required to convey the property securing the IRB issue to the Tenant, once the Tenant has paid the purchase price and other considerations as listed under the provisions of the Lease Agreement, including the payment of all outstanding bonds.

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The purchase price is \$100 and other considerations as listed under the provision of the Lease Agreement and Indenture to redeem and retire or defease all outstanding bonds. This price includes without limitations, principal, interest, redemption premium, and all other expenses of redemption, and trustee fees, but after the deduction of any amounts described and provided for in the Lease Agreement and available for such redemption.

The City is contractually bound to convey the IRB Project property to the Tenant by quit claim deed, once all the conditions established in the Lease and Indenture have been met. The City Attorney's Office has approved the form of the Resolution to authorize the execution of the Quit Claim Deed and the Termination of Lease Agreement, with their delivery contingent upon satisfaction of conditions under the Lease and Indenture, including defeasance or redemption of all Bonds.

Motion--

Mayans moved that the Resolution be adopted, the Quit Claim Deed and the Termination of Lease Agreement with delivery contingent upon satisfaction of all necessary conditions authorized and the necessary signatures authorized. Motion carried 7 to 0.

--carried

RESOLUTION NO. 05-444

A resolution of the City of Wichita, Kansas, approving sale of Bond-Financed Project; authorizing execution of deed, termination and release of the lease and all such other documents necessary to convey title to such facility, with delivery contingent upon satisfaction of certain conditions, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Brewer, Fearey, Gray, Martz, Schlapp, Skelton, Mayans.

WER

WICHITA EMPLOYEES' RETIREMENT AND POLICE AND FIRE RETIREMENT SYSTEMS' 2004 COMPREHENSIVE ANNUAL FINANCIAL REPORT.

Agenda Report No. 05-0763

The Government Finance Officers Association (GFOA) establishes financial reporting standards for local and state governments. Those governments have the opportunity to submit their financial documents for review and compliance with the standards. Certificates of Achievement for Excellence in Financial Reporting are awarded to those entities meeting the standards. The Pension Management staff completed the first Comprehensive Annual Financial Report (CAFR) for the Wichita Retirement Systems for the year ended December 31, 1998. The System was first awarded a Certificate of Achievement for Excellence in Financial Reporting for their CAFR for the year ended December 31, 1999 and to date has received five consecutive awards.

The Pension Management staff prepared the 2004 CAFR for the Wichita Retirement Systems (Wichita Employees' Retirement System and the Police & Fire Retirement System) and submitted it to GFOA for Certificate of Achievement consideration. Considerable time and effort was involved in the document preparation.

The Wichita Employees' Retirement Board and the Police & Fire Retirement Board have reviewed and approved the 2004 CAFR.

Motion--

Mayans moved that the Wichita Retirement Systems' 2004 Comprehensive Annual Financial Report be received and filed. Motion carried 7 to 0.

--carried

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PROPERTY ACQ.

PARTIAL ACQUISITION OF 705 NORTH 119TH STREET WEST FOR A TRAFFIC SIGNAL AT CENTRAL AND 119TH STREET AS PART OF THE 2004-2005 TRAFFIC SIGNAL PROGRAM. (DISTRICT IV)

Agenda Report No. 05-0764

On May 18, 2004, City Council approved a 2004-2005 Traffic Signalization Program in Districts I, II, IV & V to allow for the installation of traffic signals at major intersections and signalize school crosswalks. The intersection of West Central and 119th Street North is one of seven intersections. The partial acquisition requires a 20-foot strip of land along Central Avenue (the south property line) and a triangular taking at the hard corner to have the minimum right-of-way required for visibility per the Kansas Department of Transportation Standards.

The City had the property appraised in July 2005. Based on appraised value, an offer of \$73,655.00 for the land and damages including but not limited to trees, fence and septic system has been accepted by the owner.

The funding source for the City share is General Obligation Bonds. A budget of \$73,955 is requested. This includes \$73,655 for the acquisition, and \$300 for losing costs and title insurance.

The Law Department has approved the contracts as to form.

Motion--
--carried

Mayans moved that the budget and Real Estate Purchase Contracts be approved and the necessary signatures authorized. Motion carried 7 to 0.

PROPERTY ACQ.

ACQUISITION OF 3239 NORTH HILLSIDE FOR THE WICHITA ANIMAL CARE CAMPUS. (DISTRICT I)

Agenda Report No. 05-0765

On May 18, 2004, the City Council approved a Memorandum of Understanding between the City and the Kansas Humane Society to investigate the development of an Animal Care Campus on City owned land south of K-96 and west of Hillside. The City owned parcel contains about 55 acres. The site is located approximately 600 feet west of Hillside and is accessed by a drive off Hillside, which serves the existing City Animal Shelter. The southern portion of the City site is a former City Construction and Demolition landfill. This portion of the site will need to be excavated before it can be used for building construction. In the course of the design of the campus, it was learned that the property at 3239 North Hillside was being offered for sale. The property was listed for \$750,000. This property has 4.83 acres and is developed with a 36,115 square foot manufacturing facility. The site has 255 feet of frontage on Hillside.

The property owner has agreed to sell the parcel to the City for \$640,000. The acquisition of this parcel provides frontage on Hillside and opens the entire site up for visibility from Hillside. In addition, it eliminates the necessity of removing the demolition debris from the City site estimated between \$400,000 and \$500,000.

A budget of \$720,000 is requested for the acquisition. This includes \$640,000 for the acquisition, \$75,000 for demolition and \$5,000 for closing costs. The approved 2005-2014 Capital Improvement Program (CIP) includes \$3 million in 2006 for the construction of the Animal Care Campus. Seven hundred twenty thousand dollars (\$720,000) is being initiated now to pay for acquisition and associated costs. As this was an unplanned expense to the project, this money will be reallocated later when the CIP can be reevaluated.

The Law Department has approved the contract as to form.

Motion--
--carried

Mayans moved that the budget and real estate purchase contract be approved; the Capital Improvement Project Authorization approved and the necessary signatures authorized. Motion carried 7 to 0.

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BELMONT AVENUE TRANSFER OF BELMONT AVENUE ENTRANCE ARCHES FROM THE CITY TO THE BELMONT PLACE HOMEOWNERS ASSOCIATION. (DISTRICT II)

Agenda Report 05-0766

On August 27, 1991, the City Council approved an agreement to permit improvements to be made to the Belmont arches and period, streetlights along Belmont Avenue from Douglas to Central Avenues. The costs of these improvements were paid by special assessments against the residential properties along Belmont Avenue from Douglas to Central. Over the past 14 years there has been some deterioration to the stone structure of both arches. For both safety and aesthetic reasons, it is necessary to do substantial work to repair the arches.

When the City agreed in 1991 to do work on the arches it was on the basis that the City at large would incur no financial obligation for the work or the continued maintenance of the arches. The agreement signed at that time anticipated that the City would convey its interest in the arches to the Homeowners Association. The special assessments for the initial project work have been paid and there is now no reason for the City to continue to hold title to the arches. The arches may continue to be in place on

City right of way through the issuance of a minor street permit in the name of the Homeowners Association.

There is no cost to the City in connection with this transfer.

The governing body has the authority to transfer title to these improvements to the Homeowners Association.

Motion-- Mayans moved that the transfer of ownership to the two entrance arches at the intersections of Belmont Avenue with Douglas and Central Avenues to the Belmont Place Homeowners Association be authorized. Motion carried 7 to 0.

--carried

ANTENNA SITE LEASING OF ANTENNA SITE ON WATER TOWER AT 3901 EAST 18TH STREET TO NEW CINGULAR WIRELESS. (DISTRICT I)

Agenda Report No. 05-0767

New Cingular Wireless has approached the City about placing an antenna array on the City's water tower at 3901 East 18th Street. The site is located in the southern portion of the Wichita State campus. The Water Department has agreed to allow the installation. The lessee is responsible for obtaining the appropriate approvals and conditional use permits to allow the facility to be built.

The lease agreement provides for a five-year term with four five-year options. Annual base rental is \$18,000 per year with a 15% increase during each option period. If the facility is expanded to a full site, the base rent will increase to \$21,000 per year. The lessee agrees not to interfere with the public purpose of the area and to make sure the leased area is secure. The lessee is responsible for any personal or real property taxes associated with the facility.

The City will receive rent revenues as described above. The lessee shall be responsible for all costs of installation, operation and maintenance of the facility and the leased land upon which it is constructed.

The Law Department has approved the lease as to form.

Motion-- Mayans moved that the Lease be approved and the necessary signatures authorized. Motion carried 7 to 0.

--carried

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TRAVEL EXPEND. APPROVAL OF TRAVEL EXPENSES FOR COUNCIL MEMBER BREWER TO ATTEND NATIONAL LEAGUE OF CITIES COMMUNITY AND ECONOMIC DEVELOPMENT STEERING COMMITTEE MEETING IN MACON, GA, SEPTEMBER 8-11, 2005.

Motion--carried Mayans moved that the expenditures be approved. Motion carried 7 to 0.

TRAVEL EXPEND. APPROVAL OF TRAVEL EXPENSES FOR COUNCIL MEMBER MARTZ TO ATTEND NATIONAL LEAGUE OF CITIES HUMAN DEVELOPMENT STEERING COMMITTEE MEETING IN SAN ANTONIO, TX, SEPTEMBER 22-25, 2005.

Motion--carried Mayans moved that the expenditures be approved. Motion carried 7 to 0.

TRAVEL EXPEND. APPROVAL OF REGISTRATION EXPENSES FOR CITY COUNCIL MEMBERS TO ATTEND LEAGUE OF KANSAS MUNICIPALITIES MEETING IN WICHITA, OCTOBER 8-11, 2005.

Motion--carried Mayans moved that the expenditures be approved. Motion carried 7 to 0.

TRAVEL EXPEND. APPROVAL OF TRAVEL EXPENSES FOR COUNCIL MEMBERS TO ATTEND NATIONAL LEAGUE OF CITIES 2005 ANNUAL CONFERENCE IN CHARLOTTE, N.C., DECEMBER 6-10, 2005.

Motion--carried Mayans moved that the expenditures be approved. Motion carried 7 to 0.

JUDGEMENT PAYMENT OF JUDGMENT.

Agenda Report 05-0768

A lawsuit against the city, Garrett v City, results from an accident between a Wichita Police Department vehicle and a pedestrian at or near the 1000 block of Edgemoor Street. The accident occurred on May 1, 2003. Claimant alleges that the officer was negligent. The claimant suffered extensive leg fractures and other minor injuries.

On July 5, 2005 a jury in Sedgwick County District Court rendered a verdict in the case, finding plaintiff 40% negligent and the city, through the acts of its employee officer, 60% at fault. Deducting plaintiff's portion of the fault leaves her with an award against the city of \$215,030.

Funding for this settlement payment is from the Tort Claims Fund.

Payment of the judgment is mandatory since it is an Order of the Court.

Motion--
--carried Mayans moved that the total payment of \$215,030 in full satisfaction for the judgment rendered in this matter be authorized. Motion carried 7 to 0.

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(ITEM 20.)

GILBERT & MOSLEY GILBERT AND MOSLEY TRISTATE/HARCROS SOURCE REMEDIATION PROJECT. **(DISTRICT III)**

(Item was pulled at the request of the City Manager.)

ORDINANCES

SECOND READING ORDINANCES: (FIRST READ AUGUST 16, 2005)

- a) Amendment of Industrial Revenue Bond Documents, Buttonwood Tree Apartments.
(District II)

ORDINANCE NO. 46-651

An Ordinance authorizing the City of Wichita, Kansas, to amend its trust indenture dated as of April 1, 2002, and other related documents pertaining to its Multifamily Housing Revenue Bonds Series I, 2002 that were issued for the purpose of providing funds to acquire and rehabilitate a residential rental facility located in the City of Wichita, Kansas; and prescribing the form and authorizing execution of various documents relating thereto, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, Mayans.

- b) Improvement to Intersection of Ridge at Maple. (District V)

ORDINANCE NO. 46-652

An Ordinance declaring the intersection of Ridge at Maple (472-84258) to be a main traffic way within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main traffic way; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, Mayans.

- c) ZON2005-00028 - generally located north of Maple and west of 135th Street West.
(District V)

ORDINANCE NO. 46-653

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, Mayans.
(ZON 2005-28)

- d) ZON 2003-25 - south side of 21st Street North and on the east side of Amidon. (District VI)

ORDINANCE NO. 46-654

Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, Mayans.
(ZON 2003-25)

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PLANNING AGENDA

Council Member Fearey Council Member Fearey requested that items 22 and 23 be pulled for discussion.

(Item 22)

DR2005-00023

DR2005-00023-INITIATE APPLICATION FOR ZONE CHANGE FROM LIMITED INDUSTRIAL TO CENTRAL BUSINESS DISTRICT FOR AREA GENERALLY LOCATED BETWEEN ST. FRANCIS AVENUE, WILLIAM STREET, BNSF RAILROAD RIGHT-OF-WAY, ONE-HALF BLOCK EAST OF COMMERCE STREET AND KELLOGG. (DISTRICT I)

Agenda Report No. 05-0771

MAPC Recommendations: Not applicable.

MAPD Staff Recommendations: Wichita City Council should initiate a general revision of the zoning in the area shown on Exhibit "A" to "CBD" Central Business District.

DAB Recommendations: Not applicable.

The Arena Neighborhood Redevelopment Plan Area includes an area currently zoned "LI" Limited Industrial. The "LI" zoning district precludes residential use and is not designed to allow the uses typically found in the vicinity of a major cultural facility such as an arena. "LI" zoning is intended for industrial use and complimentary commercial uses. The "LI" zoned area is bounded by St. Francis Ave. on the west, William St. on the north, the BNSF railroad right-of-way located one-half block east of Commerce St. on the east and the Kellogg freeway and off-ramp on the south.

The Unified Zoning Code provides that the "Governing Body may initiate a zone change request with or without an application from the property owners" (Unified Zoning Code Art. V, Sec. V-A.1). All notice requirements except written (mailed) notice to individual property owners apply for general revisions of the Unified Zoning Map processed under this provision.

"CBD" Central Business District zoning offers several improvements to lay the groundwork for implementation of the Arena Neighborhood Redevelopment Plan Area. First, it eliminates some potential Conditional Uses that are incompatible intensive mix of uses desired in a downtown core area and in the vicinity of major cultural facilities. Examples of industrial, manufacturing and extractive uses prohibited by right or not allowed as a Conditional Use in "CBD" are gas and fuel storage, freight terminal, and wrecking/salvage yard.

Instead, "CBD" allows all residential uses except manufactured housing. Current trends to redevelop lofts and office buildings with residential use would be a use by right.

"CBD" also removes the off-site parking requirements to allow flexibility in developing shared parking facilities to serve multiple parking needs, eliminates building setbacks to allow zero-lot setbacks in character with traditional downtown development and compatible with the trends in loft/apartment uses, eliminates height restrictions to allow higher intensity use that reinforces the viability and liveliness of the downtown area.

The item has been reviewed and approved as to form by the Law Department.

Council Member Fearey Council Member Fearey stated that she has concerns and questions regarding the way we are going about doing this. Stated that this would down zone everything in these areas and takes away the Limited Industrial (LI) and changes it to Central Business District (CBD) zoning. Stated that she is concerned with the Delano and Midtown areas and that the people in those areas should have the option to opt out of this zoning change. Stated that if we do not give the people this right, the City could be setting itself up for a lawsuit by taking away the use and value of their land.

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- Gary Rebenstorf Director of Law stated that the City could defend a claim in that regard.
- Council Member Fearey Council Member Fearey stated that this concerns her especially in regards to the Delano Area because they had to redo their overlay plan a couple of times and were left with pockets of inappropriate zoning in that area. Stated that it does not seem to be equitable to do it this way.
- Mayor Mayans Mayor Mayans asked if the intent was to protect old town from sexually oriented businesses and is that what we are trying to accomplish.
- John Schlegel Planning Director stated that is the intent.
- Council Member Fearey Council Member Fearey stated that there are other ways to do this with a protective overlay.
- John Schlegel Planning Director stated that they had looked at a number of options and that this way is a much simpler approach.
- Council Member Fearey Council Member Fearey stated that she is not opposed to down zoning but is trying to avoid law suits and does not think that this is very equitable.
- Mayor Mayans Mayor Mayans stated that he thinks this idea came out of a task force that the Council asked to look at.
- Motion-- Fearey moved that the MAPD be directed to initiate a general revision to the Unified Zoning Code per Exhibit "A" and to include what type of opt out provision could be provided.
- Council Member Brewer Council Member Brewer stated that he does not think this is a good idea and that the Council should continue and approve the recommendation of staff. Stated that the Council should stick with the original plan and move forward.
- withdrawn Council Member Fearey withdrew her motion with consent of the second.
- Motion--carried Fearey moved to defer until the September 13, 2005 Council Meeting. Motion carried 7 to 0.

(Item 23) DR2005-0024

DR2005-00024-INSTITUTE APPLICATION FOR ZONE CHANGE FROM LIMITED INDUSTRIAL TO CENTRAL BUSINESS DISTRICT FOR AREA GENERALLY LOCATED BETWEEN 2ND STREET NORTH, I-135, APPROXIMATELY 200 FEET SOUTH OF DOUGLAS AVENUE BETWEEN I-135 AND HYDRAULIC AVENUE, HYDRAULIC AVENUE, WATERMAN STREET, BNSF RAILROAD RIGHT-OF-WAY, DOUGLAS AVENUE AND WASHINGTON AVENUE. (DISTRICT I)

Agenda Report No. 05-0772

MAPC Recommendations: Not applicable.

MAPD Staff Recommendations: Wichita City Council should initiate a general revision of the zoning in the area shown on Exhibit "A" to "CBD" Central Business District.

DAB Recommendations: Not applicable.

This area is currently zoned "LI" Limited Industrial, but is located at the fringe of the expanding downtown core and Old Town Overlay District where demand is growing for mixed use development offering a place for both living and working. Typical uses include loft apartments, restaurants, theaters, offices, and retail uses. The "LI" zoning district precludes residential use, which eliminates mixed use development seeking to expand within the area. Further, "LI" zoning is intended for industrial use and complimentary commercial uses located that are incompatible with the mixed use development concept. The "LI" zoned area is bounded on the north by 2nd Street North, on the east by I-135, on the south by the row of lots south of Douglas Ave. between I-135 extending west to Hydraulic Ave., then bounded on the east by Hydraulic Ave., bounded on the south by Waterman St., on the west by the BNSF

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railroad right-of-way, then bounded on the north by Douglas Ave. and bounded on the west by Washington Ave. to 2nd Street North.

The Unified Zoning Code provides that the "Governing Body may initiate a zone change request with or without an application from the property owners" (Unified Zoning Code Art. V, Sec. V-A.1). All notice requirements except written (mailed) notice to individual property owners apply for general revisions of the Unified Zoning Map processed under this provision.

"CBD" Central Business District zoning allows all residential uses except manufactured housing. Current trends to redevelop lofts and office buildings with residential use would become a use by right, which would encourage the expansion of the urban core with mixed use development from its current edge in the Old Town Overlay District eastward to I-135. Also, "CBD" eliminates some potential Conditional Uses of the "LI" district that are incompatible with the intensive mix of uses desired in a downtown core area. Examples of industrial, manufacturing and extractive uses prohibited by right or not allowed as a Conditional Use in "CBD" are gas and fuel storage, freight terminal, and wrecking/salvage yard.

"CBD" also removes the off-site parking requirements to allow flexibility in developing shared parking facilities to serve multiple parking needs, eliminates building setbacks to allow zero-lot setbacks in character with traditional downtown development and compatible with the trends in loft/apartment uses, eliminates height restrictions to allow higher intensity use that reinforces the viability and liveliness of the downtown area.

The item has been reviewed and approved as to form by the Law Department.

Motion--carried Fearey moved to defer until the September 13, 2005 Council Meeting. Motion carried 7 to 0.

OFF AGENDA ITEM Council Member Schlapp requested an off-agenda item to allow for board appointments.

BOARD APPTS. BOARD APPOINTMENTS:

Council Member Schlapp Council Member Schlapp requested that Sam Fry be appointed to the Arena Citizen Design Review Advisory Team.

Council Member Fearey Council Member Fearey requested that Jaya Escobar be appointed to the Community Corrections Board.

Motion--carried Mayans moved that the appointments be made. Motion carried 7 to 0.

RECESS Mayor Mayans requested to recess the Council Meeting at 10:10 a.m. and to go into workshop.

WORKSHOP The workshop followed in the first floor boardroom.

EXECUTIVE SESSION

Motion-- Mayans moved that the City Council recess into Executive Session at 12:35 p.m. to consider: Consultation with legal counsel on matters privileged in the attorney-client relationship relating to: pending litigation, potential litigation and legal advice and that the Council return from Executive Session no earlier than 1:10 p.m. and reconvene in the first floor boardroom of City Hall. Motion carried 7 to 0.

--carried

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RECONVENE

The Council reconvened in the first floor boardroom of City Hall at 1:10 p.m. Mayor Mayans announced that no action was taken.

ADJOURNMENT

Motion--carried

Mayans moved to adjourn the Executive Session at 1:10 p.m. Motion carried 7 to 0.

Motion--carried

Mayans moved to adjourn the regular meeting at 1:11 p.m. Motion carried 7 to 0.

The City Council meeting adjourned at 1:11 p.m.

Respectfully submitted,

Karen Sublett
City Clerk